

Message Text

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SUBJ: NEW ZEALAND STATEMENT ON ICJ NUCLEAR TESTING CASES

NEW ZEALAND MISSION TO UN ISSUED PRESS RELEASE CONTAINING
FOLLOWING STATEMENT BY PRIME MINISTER ROWLING, 21 DECEMBER 1974,
ON ICJ DECISION IN FRENCH NUCLEAR TESTING CASES.

QTE

JUDGMENT OF THE INTERNATIONAL COURT OF JUSTICE
IN THE NUCLEAR TESTS CASE, NEW ZEALAND V. FRANCE

IN A JUDGMENT DELIVERED YESTERDAY IN THE HAGUE IN THE
NUCLEAR TESTS CASE BETWEEN NEW ZEALAND AND FRANCE, THE
INTERNATIONAL COURT OF JUSTICE FOUND, BY 9 VOTES TO 6,
THAT: "THE CLAIM OF NEW ZEALAND NO LONGER HAS ANY OBJECT
AND THAT THE COURT IS THEREFORE NOT CALLED UPON TO GIVE A
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DECISION THEREON". SIMILAR FINDING WAS REACHED IN THE

CASE BROUGHT BY AUSTRALIA AGAINST FRANCE.

COMMENTING TODAY ON THE COURT'S FINDING, THE PRIME MINISTER, THE RIGHT HONOURABLE W.E. ROWLING, POINTED OUT THAT THE WHOLE BASIS ADDUCED BY THE COURT FOR ITS JUDGMENT WAS THAT, THROUGH STATEMENTS MADE BY THE PRESIDENT OF FRANCE AND BY OTHER MEMBERS OF THE FRENCH GOVERNMENT, FRANCE HAD ASSUMED A LEGALLY BINDING OBLIGATION TO CONDUCT NO FURTHER ATMOSPHERIC NUCLEAR TESTS IN THE SOUTH PACIFIC. MR ROWLING SAID THAT IT WAS WORTH EMPHASISING THIS CENTRAL FEATURE OF THE JUDGMENT BY QUOTING THE COURT'S OWN WORDS (PARAGRAPH 55 OF THE JUDGMENT): "THE COURT FACES A SITUATION IN WHICH THE OBJECTIVE OF THE APPLICANT HAS IN EFFECT BEEN ACCOMPLISHED, INASMUCH AS THE COURT FINDS THAT FRANCE HAS UNDERTAKEN THE OBLIGATION TO HOLD NO FURTHER NUCLEAR TESTS IN THE ATMOSPHERE IN THE SOUTH PACIFIC."

THE COURT HAD GONE ON TO SAY (PARAGRAPH 63 OF THE JUDGMENT) THAT, "IF THE BASIS OF THIS JUDGMENT WERE TO BE AFFECTED" THE APPLICANT COULD AGAIN APPROACH THE COURT TO REQUEST THAT THE SITUATION BE RE-EXAMINED. THUS, THE COURT'S FINDING ACHIEVES IN LARGE MEASURE THE IMMEDIATE OBJECT FOR WHICH THESE PROCEEDINGS WERE BROUGHT.

THE PRIME MINISTER RECALLED THAT THE NEW ZEALAND GOVERNMENT HAD FELT OBLIGED IN THE PAST TO TAKE A MORE GUARDED VIEW THAN THAT TAKEN BY THE COURT OF FRENCH PRONOUNCEMENTS. UNTIL THE COURT JUDGMENT WAS GIVEN IT HAD REGARDED THOSE PRONOUNCEMENTS AS LESS THAN THE UNQUALIFIED ASSURANCE WHICH NEW ZEALAND DESIRED. IN THAT CONNECTION, MR ROWLING NOTED THAT THE SIX JUDGES WHO HAD NOT FELT ABLE TO ARRIVE AT THE DECISION REACHED BY THE MAJORITY OF THE COURT HAD ALL FOUND SUBSTANTIALLY IN FAVOUR OF THE NEW ZEALAND AND AUSTRALIAN SUBMISSION UPHOLDING THE COURT'S JURISDICTION AND THE ADMISSIBILITY OF THE CASE.

THE PRIME MINISTER SAID THAT THERE WOULD OF COURSE BE A NEED TO STUDY, IN GREATER DETAIL THAN WAS POSSIBLE ON THE BASIS OF CABLED REPORTS, THE JUDGMENT OF THE COURT AND THE SEPARATE OPINIONS OF INDIVIDUAL JUDGES. THE MAIN CONCLUSION UNCLASSIFIED

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WAS, HOWEVER, CLEAR. THERE WAS NOW THE HIGHEST AUTHORITY FOR THE PROPOSITION THAT ANY RESUMPTION BY FRANCE OF ATMOSPHERIC NUCLEAR TESTING IN THE SOUTH PACIFIC WOULD BE IN BREACH OF AN INTERNATIONAL OBLIGATION. UNDER THE COURT'S STATUTE, THE PARTIES ARE BOUND BY ITS DECISIONS.

MR ROWLING CONCLUDED BY RECALLING THAT NEW ZEALAND'S CONCERN ABOUT NUCLEAR TESTING HAD NEVER BEEN CONFINED TO

THE PARTICULAR CASE OF THE TESTS CONDUCTED BY FRANCE--OR,
INDEED, TO THE QUESTION OF TESTING IN THE ATMOSPHERE. IT
WOULD CONTINUE TO BE THE NEW ZEALAND GOVERNMENT'S AIM TO
BRING ABOUT THE END OF ALL FORMS OF NUCLEAR WEAPONS
TESTING, BY ANY COUNTRY. UNQTE.
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